(4)

(1)

IN THE HIGH COURT OF JUDICATURE AT BILASPUR, (C.G.)

W.P. No. 5344 **/2005**

PETITIONER: Balaram Kesharwani aged about 64 years S/o Tiharuram Kesharwani Retired Compounder, Sheorinarayan, Tahsil Janjgir Distt. Janjgir-Champa (C.G.)

P.R. No. 5427/05
Presented by Ashish mishra
dated 19/10/05

VERSUS

RESPONDENTS: Bhagwan Shri Sheorinarayan
Math Mandir Public Trust Sheorinarayan
Distt.
Janjgir Champa (C.G.)

PETITION UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA FOR ISSUANCE OF APPROPRIATE WRITS OF MANDAMUS AND CERTIORARI AND FOR OTHER SUITABLE WRITS AND DIRECTIONS: -

(31)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक ...W.P.No. 5344/05... **सन् 200**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	9-11-2005 Shri Mahendra Dubey, counsel for the petitioner. By this writ petition under Article 227 of the Constitution of India the petitioner has challenged the legality, propriety and correctness of the order dated 18-8-2005 passed by the learned Civil Judge, Class-1, Janjgir in civil suit No.189-A/2003, old number 126-A/2001, whereby learned Civil Judge has rejected the application of the petitioner filed under Order 26 Rule 9 of the C.P.C. for appointment of the Commissioner in order to make local investigations and to submit the report. I have heard learned counsel for the petitioner on admission. Learned counsel for the petitioner submitted that in order to make the picture clear it is necessary that the Commissioner should be appointed for local investigation. Having heard learned counsel for the petitioner, I have perused the impugned order, the plaint filed by the respondent herein and the written statement filed by the petitioner herein. Rule 9 of Order 26 of the C.P.C. envisages that 'In any suit in which the Court deems a local investigation to be requisite or proper for the purpose of elucidating any matter in dispute, the Court may issue a commission to such person as it thinks fit directing him to make such investigation and to report thereon to the Court.' Learned trial Court has passed the order that it is not necessary in the matter to appoint the Commissioner because the defendant/petitioner herein has admitted in his written statement that he is in possession of the land since 1983 and he has not disputed that the land belongs to the plaintiff.	

SP/FS/2005 - 20,000

(32)

XI-HC-78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक ..... सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश —2—	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
Barve	Therefore, in view of the above, I am of the view that the trial Court has not passed any order which is perverse or not in consonance with the provisions of Rule 9 of Order 26 of the C.P.C., as such the petitioner has not been able to make out a case for interference by this Court under Article 227 of the Constitution of India by invoking extraordinary jurisdiction. The writ petition is, therefore, liable to be dismissed and it is accordingly dismissed. No costs. Consequently, M.(W.)P. No.4302/2005 and I.A. No.9203/2005 also stand disposed of. **Sd/-** **L.C.Bhadoo** **Judge**	

11.11.05

14.11.05